

EXHIBIT 5

1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 SERGEY MAYOROV,)
5)
6 Plaintiff,)
7)
8 -vs-)No. 13 C 5249
9)
10 UNITED STATES OF AMERICA,)
11)
12 Defendant.)
13 _____)

14 The deposition of GUISEPPE DIMAGGIO, called by
15 the Defendant for examination, pursuant to Subpoena and
16 pursuant to the Federal Rules of Civil Procedure for the
17 United States District Courts pertaining to the taking
18 of depositions, taken before Tracy Kerney, Certified
19 Shorthand Reporter, at 131 South Dearborn Street,
20 Suite 1700, Chicago, Illinois, commencing at the hour of
21 10:30 a.m., on the 30th day of April, A.D., 2014.

22
23
24

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9
10 -and-

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18 On behalf of the Plaintiff;

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On behalf of the Defendant.

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1 (Witness duly sworn.)

2 GUISEPPE DIMAGGIO,

3 called as a witness herein, having been first duly sworn, was
4 examined and testified as follows:

5 EXAMINATION

6 BY MR. RAJADURAI:

7 Q. Good morning, Mr. Dimaggio.

8 A. Good morning.

9 Q. My name is Abiman Rajadurai. I represent the
10 plaintiffs in this case. This is Mark Fleming,
11 plaintiff's attorney.

12 Could you begin by stating and spelling your
13 name, for the record.

14 A. Sure. First name is Guiseppe,
15 G-U-I-S-E-P-P-E, last name, Dimaggio, D-I-M-A-G-G-I-O.

16 Q. And where do you reside?

17 A. In Norridge.

18 Q. What's the address?

19 MR. KUHN: Don't need it. Go on to something
20 else. We're not going to give it to you, so go on to
21 something else.

22 BY MR. RAJADURAI:

23 Q. Have you been deposed before?

24 A. No.

1 Q. Some basic ground rules, this is basically a
2 question-and-answer format here. If you don't
3 understand a question, just ask me to repeat it or
4 rephrase it. Your attorney may object as he did moments
5 ago. You can answer, unless he instructs you not to
6 answer. Answer verbally. Nodding or hand gestures, she
7 can't take down. I'll try and finish my question, then
8 you can respond.

9 If you need to take a break, let me know.
10 We'll go through for a little bit now and if you need to
11 take a break, we can. If not, we'll try and go through
12 and try and finish and get out of here.

13 Do you have any questions --

14 A. No.

15 Q. -- of the rules?

16 Anything that would prevent you from
17 testifying completely and truthfully today?

18 A. No.

19 Q. Did you prepare for this deposition in any
20 way?

21 A. No.

22 Q. You didn't look at any documents?

23 A. Yeah, I did.

24 Q. What documents did you review?

1 A. I reviewed the packet that was put together
2 from Jessica.

3 Q. And that's Jessica Beckman?

4 A. Correct.

5 Q. Did you bring any documents with you today?

6 A. No.

7 I thought I left it in the office. Sorry.

8 Q. No problem. Did you discuss the deposition
9 with anyone other than your attorney today?

10 A. No, no one.

11 Q. Where did you attend high school?

12 A. Italy, Sicily.

13 Q. Did you graduate?

14 A. Yes.

15 Q. Did you attend college?

16 A. No.

17 Q. Any other schooling after high school?

18 A. No. I went to one year college, but I didn't
19 finish.

20 Q. Okay. What college was that?

21 A. University of Bladimore.

22 Q. And that's in Italy?

23 A. Yes.

24 Q. Any other certifications?

1 A. No.

2 Q. What was your first employment -- sorry. When
3 did you move to the United States?

4 A. 21. I was 21.

5 Q. What year was that?

6 A. What year was that? 1998, I believe.

7 Q. And what employment did you have when you came
8 over to the United States?

9 A. I worked at Jewels. I worked at Yale Europe.
10 I worked at Grainger, and I owned my own business for I
11 want to say seven years.

12 Q. And you're an ICE agent now; is that correct?

13 A. Correct.

14 Q. When did you start working at ICE?

15 A. 2009.

16 Q. And what was your first job attempt there?

17 A. IEA, immigration enforcement agent.

18 Q. And what were your responsibilities in that
19 role?

20 A. I was in Secure Communities, and we received
21 fingerprint queries and we examined the queries and
22 determined whether or not to place detainers.

23 Q. Okay. And where do you receive those queries
24 from?

1 A. From different jails and police departments.

2 Q. As an IEA, who did you report to?

3 A. To Supervisor Calvin Thompson.

4 Q. And is that still the supervisor?

5 A. No. He is a deportation officer now.

6 Q. Who do you report to now?

7 A. Brian Kazinski.

8 Q. And are you still an IEA?

9 A. Correct. Yes, I am.

10 Q. Who -- starting in 2009, who reported to you?

11 Did you have anyone who reported to you?

12 A. Nobody.

13 Q. Other than Mr. Kasinski or Thompson, would you
14 have reported to anyone else?

15 A. Yes. Second line in 2009, was
16 Carey Kaufman.

17 Q. And then when you started in 2009, did you
18 begin working immediately or did you receive any
19 training?

20 A. Yes. I went to FLETC in Georgia for six
21 months.

22 Q. And what were the subjects or topics that you
23 were trained on at FLETC?

24 A. Immigration laws, firearms, defensive tactics.

1 Q. Anything else?

2 A. Right now, I can't recall anything else.

3 Immigration laws basically was --

4 Q. And who taught the immigration law courses?

5 A. I don't remember his name.

6 Q. Were they different from the people who
7 trained you in firearms or defensive tactics?

8 A. Yes.

9 Q. And did you receive any training materials for
10 the immigration training?

11 A. Yes.

12 Q. Were they hard copy, electronic?

13 A. Hard copies.

14 Q. Are those in your possession?

15 A. I still have some.

16 Q. Okay. And do you recall what immigration laws
17 you were specifically trained on?

18 A. Yes. Inadmissibilities, aliens that basically
19 are not the deportable; and charges, the different
20 charges that we can deport them on.

21 Q. Did you receive training on the detainees at
22 FLETC?

23 A. I don't remember.

24 Q. As part of your responsibilities as an IEA, do

1 you issue immigration detainees?

2 A. Currently? No.

3 Q. And do you still work in Secure Communities?

4 A. No.

5 Q. What's your current position?

6 A. Removal and detention.

7 Q. And when did you move into that role?

8 A. November 2013.

9 Q. Okay. Was that a voluntary move on your part?

10 A. We bid every year and it was a voluntary move,
11 yes.

12 Q. Okay. Any other title -- is your title still
13 IEA today?

14 A. Yes, it is.

15 Q. Are there any other divisions you're in other
16 than security communities?

17 A. No.

18 Q. So do you still issue immigration detainees?

19 A. No, I don't.

20 Q. So would that have ended in November 2013
21 issuing detainees?

22 A. I'm --

23 Q. Would you have last issued detainees ending in
24 November 2013?

1 A. Correct.

2 Q. So as an IEA, was one of your responsibilities
3 to issue immigration detainees?

4 A. Yes, it was.

5 Q. What are immigration detainees?

6 A. It's a request to hold for a period of 24 to
7 48 hours to initiate -- a request to hold someone for 24
8 to 48 hours.

9 Q. And where would that request come from?

10 A. From ICE.

11 Q. When did you start issuing immigration
12 detainees?

13 A. 2009 -- after the academy. So it started
14 2009. Six months later.

15 Q. Do you remember receiving any training upon
16 returning from the academy on issuing immigration
17 detainees?

18 A. Yeah, I did receive some training. And I want
19 to say I followed someone for a month.

20 Q. Okay. And who did you follow?

21 A. Different IEAs back then. I want to say
22 Aguial, Guerra and Labone. I forgot his first name.

23 Q. And approximately how many detainees would you
24 have shadowed them to issue during that time period?

1 A. When I first started?

2 Q. Under these three people you just named, how
3 many of those -- how many detainers were issued during
4 that time when you were shadowing them?

5 A. I can't really recall.

6 Q. When was the last time you issued a detainer?

7 A. I want to say November when I -- right before
8 the transition.

9 Q. Okay. Between 2009 and November 2013, how
10 many detainers do you typically issue in a week?

11 A. It depends. There's no --

12 Q. Any estimate? Maybe over a month or a year
13 maybe.

14 A. There's no really -- a number. We don't work
15 on numbers, you know. It depends.

16 Q. Have you done over 50, let's say?

17 A. Have I done over 50?

18 Q. Have you issued over 50?

19 A. Yeah, I think so.

20 Q. Over a hundred?

21 A. I can't -- I don't know.

22 Q. Sure. And so when you're shadowing the other
23 ICE officers early on, did they provide you with
24 training as to what they were doing or were you just

1 watching?

2 A. Yes, they do provide me with training, yes.

3 Q. Did they give you any hard copies or was it
4 all verbal, oral?

5 A. All verbal.

6 Q. How soon after shadowing would you say you
7 issued your first detainer?

8 A. Maybe after a couple of weeks.

9 Q. Okay. And how long do you think the shadowing
10 period was?

11 A. They would -- well, after a couple of weeks,
12 they would just you know sit next to me. Even though
13 they're showing detainees, they would sit next to me to
14 make sure I was doing everything correctly. So I would
15 say the whole process was about a month.

16 Q. And how soon after shadowing would you say you
17 were by yourself to issue detainees on your own?

18 A. Like I said, after about a month.

19 Q. Okay. Other than at the academy, do you
20 remember receiving any written materials on detainees?

21 A. Yes.

22 Q. And what materials were those?

23 A. Materials to advise us on, you know, detainees
24 placed on certain circumstances.

1 Q. Okay.

2 A. So with -- with, you know, deferred act, you
3 know, things came up, so they were advised on, you know,
4 what took place, a detainer on, who to place a detainer
5 on.

6 Q. Sure. And do you keep any of these materials?

7 A. I believe I do.

8 Q. I think you mentioned a few circumstances of
9 specific training. Do you remember any other certain
10 topics that you received training for in the detaining
11 area or is it the list you provided earlier?

12 A. Just the list. Right now, I can't recall.

13 Q. Do you remember receiving any follow-up
14 training between 2009 to 2013?

15 A. No.

16 Q. Did you ever receive updates or memos or other
17 paper documents on new policies?

18 A. We always do, yes.

19 Q. How frequent would you say you received those?

20 A. There's not a pattern.

21 Q. And would you receive that individually or
22 would that come from a supervisor?

23 A. That would come from a supervisor and it's not
24 individually. It goes through the whole ERO.

1 Q. Would it ever be a group training session or
2 would you just receive a mail or e-mail?

3 A. E-mail.

4 Q. And when you were issuing detainees, would you
5 follow a standard procedure?

6 A. Yes.

7 Q. And where did you learn the standard
8 procedure?

9 A. I'm sorry. Repeat the question again.

10 Q. Where would you have learned the standard
11 procedure from?

12 A. When issuing detainees?

13 Q. Yes.

14 A. We have an SOP in place that, you know, I have
15 in my mailbox, and I go off of it. You know, we do
16 checks, and, you know, all of the checks are necessary.

17 Q. As far as you know, did that standard
18 operating procedure change from 2009 to November 2013?

19 A. I don't think so.

20 Q. And did you have that standard operating
21 procedure in writing also?

22 A. It was e-mailed to me.

23 Q. I guess now could you walk me through the
24 process of issuing a detainer, step by step?

1 A. Sure. Back in 2009, we received -- we
2 received a fingerprint hit from foreign-born national
3 and the contractors would put a packet together, doing
4 all of the checks and they would pass the packet, and we
5 do all of the -- we check all of the paperwork and we
6 make a determination whether or not a detainer needed to
7 be placed.

8 Q. And I guess going back to the checks, what
9 checks did the contractors run?

10 A. They run CIS claims and NCIC, EARM, and that's
11 the state department and that's about it.

12 Q. And were these checks the same for every
13 single potential --

14 A. Yes.

15 Q. And are these all electronic databases or are
16 some of these print materials?

17 A. Electronic databases.

18 Q. Would you review those materials
19 electronically or would someone gather them and print
20 them?

21 A. They would print them out and give them to me.

22 Q. And do you have the responsibility of updating
23 those databases?

24 A. No, I don't.

1 Q. Did you always work with the same contractors?

2 A. Some people left, some of the contractors. I
3 don't recall who.

4 Q. And I guess going by each of these databases,
5 let's start with CIS, you mentioned. What would you
6 find on CIS?

7 A. Their date of entry, their status, whether
8 someone has been deported or not. Date of birth, name,
9 last name, like I stated, status.

10 Q. Sure. What about claims?

11 A. Claims? If they have any application pending
12 with CIS or application.

13 Q. And I think you said NCESO?

14 A. EARM.

15 Q. I thought you said --

16 A. NCIC.

17 Q. What would you find --

18 A. Criminal record.

19 Q. And then what about EARM?

20 A. If they have been encountered with
21 Immigration.

22 Q. You mentioned a state department report. Is
23 that the proper title, state department?

24 A. If they have a passport, you know.

1 Q. Any other databases?

2 A. No.

3 Q. Do you remember the name of the state
4 department report?

5 A. No.

6 Q. And how would -- how is the information
7 verified on the system checks? Did you take any steps
8 to verify the information was accurate?

9 A. Repeat the question.

10 Q. So the information that's in the databases
11 that you received, did you take any steps to investigate
12 that the information was correct?

13 A. We always do -- try to verify information is
14 correct?

15 Q. What steps would you make to verify that the
16 information on, say, CIS or claims was accurate?

17 A. Actually, we just go by what the, you know,
18 the database is giving us. We just make sure that the
19 information that the contractor gives us matches, you
20 know, the hit. That's what we do. We just have to make
21 sure that, you know, the information that's given us
22 from the contractor matches the hit, but we have to do
23 by what CIS is providing us.

24 Q. Okay. I don't know if you mentioned this

1 before, but have you heard of the enforce system?

2 A. Enforce.

3 Q. Is that another database?

4 A. Yes.

5 Q. And what would be on that?

6 A. That's -- Enforce is also, you know, our
7 database, you know, that basically tells us if they have
8 been encountered by Immigration.

9 Q. Okay. And are you required to gather
10 information from all of these databases?

11 A. Yes.

12 Q. And where does that requirement come from?

13 A. The SOP.

14 Q. Do you take any steps -- or I should say did
15 you take any steps when issuing detainers to ensure that
16 a potential subject was a U.S. citizen before issuing
17 the detainer?

18 A. We placed the detainer to start an
19 investigation. We don't have the file in front of us.
20 Therefore, you know, we just placed the detainer and
21 when it comes to our custody, we would start the
22 investigation.

23 Q. So the steps as you said, you receive the
24 information, then you would issue the detainer and then

1 do an investigation; is that accurate?

2 A. Yeah. We receive the information. We place a
3 detainer based on the information that we have at that
4 moment and when it comes to our custody, we start
5 investigation.

6 Q. Once -- I guess going back, how would you
7 determine a subject was born in the United States?

8 A. How would I determine a subject was born in
9 the United States? By a birth certificate.

10 Q. Any other resources?

11 A. Passport.

12 Q. And would you only look at hard copy or print
13 materials or would you interview?

14 MR. KUHN: At what point are you talking
15 about?

16 MR. RAJADURAI: The custody, when they brought
17 him into custody.

18 MR. KUHN: ICE custody or IDOC custody?

19 BY MR. RAJADURAI:

20 Q. You said once you place the detainer, then
21 they're in custody, then you would begin investigating,
22 correct. Is that ICE custody or IDOC?

23 A. IDOC. He was never in our custody.

24 Q. Once they were in IDOC's custody, then you

1 would investigate?

2 A. No. We don't investigate until they get into
3 our custody.

4 MR. FLEMING: Can we take just a very quick
5 break, so I can explain.

6 (Whereupon there was a brief
7 break, after which the
8 following proceedings were
9 had:)

10 BY MR. RAJADURAI:

11 Q. Is there any procedure you were given to
12 determine when a subject could have derived U.S.
13 citizenship through a parent?

14 A. Yes. The procedure was that, you know, if --
15 to check their parents' nationality.

16 Q. And how would you do that?

17 A. By going to the database and looking up their
18 parents' name.

19 Q. And would you ever look at the A-file for the
20 parent or any other information?

21 A. The A-file is not in our possession.

22 Q. Would you ever interview a subject's mother or
23 father?

24 MR. KUHN: At what point are we talking about

1 here?

2 MR. RAJADURAI: If you had to derive -- if you
3 had to determine whether someone --

4 MR. KUHN: Is this prior to placing the
5 detainer or --

6 MR. RAJADURAI: Prior.

7 MR. KUHN: Prior to placing the detainer.

8 THE WITNESS: Prior to placing the detainer?

9 BY MR. RAJADURAI:

10 Q. Yes.

11 A. It's a biometric hit, no.

12 Q. What about after?

13 A. After when it comes to our custody?

14 Q. Sure.

15 A. When it comes in our custody, yes, then it's a
16 full investigation.

17 Q. Prior to issuing a detainer, if a subject's
18 father or mother is a U.S. Citizen, do you conduct any
19 further investigation into the subject's citizenship
20 status?

21 A. Yes. We have to make sure that the subject
22 derived citizenship because they have to file a form and
23 they have to be within -- they have to qualify. There's
24 many restrictions and many things we have to look at.

1 Q. What are some of those things you look at?

2 What information?

3 A. Whether or not they entered the United States
4 before age of 18, when the mother naturalized or the
5 father, whether or not they're in wedlock -- you know,
6 in wedlock. The more -- and, you know, parents, the
7 year that the parents became a U.S. citizen.

8 Q. And would you investigate a mother's or
9 father's citizenship then prior to issuing the
10 detainers?

11 A. Prior?

12 Q. Yeah.

13 A. No.

14 Q. Why wouldn't you do that?

15 A. I would if I have that information in front of
16 me, but in this case, I did not have that information in
17 front of me. The A-file was not in front of me. I did
18 not have that information.

19 Q. Okay. If someone claims to be a U.S. citizen
20 or you see a note that someone might be a U.S. citizen,
21 what steps would you take to document or investigate
22 that information?

23 MR. KUHN: Again, prior to issuing --

24 THE WITNESS: Prior, I would do the same

1 thing. If I see a note, I would do the same thing.
2 Just go through my checks and determine whether or not
3 this person is a U.S. citizen based on the information I
4 was given.

5 BY MR. RAJADURAI:

6 Q. And do you have to document your reasons for
7 issuing a detainer?

8 A. I'm sorry?

9 Q. Do you have to document the reasons for why
10 you issued a detainer?

11 A. Yes.

12 Q. What information do you document?

13 A. We document the status of the subject and the
14 reason why we are placing a detainer, whether, you know,
15 he's deportable or not?

16 Q. And when would you prepare this documentation?

17 A. We put in a narrative when we place the
18 detainer.

19 Q. Okay. Do you have to swear to the
20 truthfulness of your reasons for why a detainer is
21 issued?

22 A. No.

23 Q. Could you obtain information about a parents'
24 citizenship electronically, if you wanted to?

1 A. If -- if the A-file is digitized, yes.

2 Q. Was it common when you worked at Secure
3 Communities to see A-files that were digitized?

4 A. Not many files are digitized.

5 Q. As far as you know, is it possible to acquire
6 citizenship through one's parents?

7 A. Yes.

8 Q. What are the methods that you're familiar with
9 that that could happen?

10 A. By the parents being natural -- being
11 citizens.

12 Q. How would a child acquire citizenship through
13 one's parents? Are you aware of methods?

14 A. There are different methods. I would have to
15 have a chart here to describe like age, different
16 scenarios, but there are different scenarios. You have
17 to look at the year when they -- when the parents
18 naturalized, as I said earlier. You have to look at,
19 you know, when the child entered the United States. You
20 have to look at, you know, whether or not the parents
21 are in wedlock.

22 Q. Do you know if a parent would have a CIS entry
23 if they became a naturalized U.S. citizen?

24 A. Yes, they would.

1 Q. And it would be possible for you to review
2 that information?

3 A. If it's in the database, yes.

4 Q. As part of your procedures of issuing
5 detainers. So prior to issuing a detainer, would you
6 investigate whether a person could have derived
7 citizenship?

8 A. Yes, we do.

9 Q. And was there a certain trigger as to why you
10 would look into that or would you do that for all cases?

11 A. If we are investigating or if we're looking at
12 a legal permanent resident, we generally look at the
13 mother's and father's database as well.

14 Q. Any other methods for how you would
15 investigate that?

16 A. Not unless it's in our custody.

17 Q. And what would you do if he was in your
18 custody? What other methods would you do to
19 investigate?

20 A. Then you order the A-file.

21 Q. Are you familiar with derivative U.S.
22 citizenship through the Child Citizenship Act of
23 2000?

24 A. Yes.

1 Q. What is your understanding of that law?

2 A. If someone comes in, enters the country before
3 the age of 18, they're eligible -- I'm sorry. Repeat
4 that question.

5 Q. What's your understanding --

6 A. Which law?

7 Q. The Child Citizenship Act of 2000.

8 A. I'm sorry. I confused that. No, I'm not
9 familiar with that.

10 Q. What was the one you were describing?

11 A. The Dream Act.

12 Q. So do you have any familiarity with the Child
13 Citizenship Act of 2000?

14 A. At this moment, no.

15 Q. Do you know, you know, who else was involved
16 when you issued a detainer, you individually or run it
17 to someone else?

18 A. A supervisor. The supervisor checks the work
19 that you do.

20 Q. Do you need authority from the supervisor to
21 issue the detainer?

22 A. No. I send the detainer, I fax it and then
23 the supervisor reviews.

24 Q. And were there circumstances where the

1 supervisor told you not to issue a detainer after
2 reviewing?

3 A. Yes.

4 Q. What circumstances do you recall that
5 occurring?

6 A. Circumstances where the deportability -- the
7 charge is not a deportable charge. So if the subject
8 was, you know, in jail for an offense that is not a
9 deportable offense, then he would review the case and
10 the supervisor would review the case and make a
11 determination to whether or not that charge is a
12 deportable defense or not, that conviction was a
13 deportable defense or not. So usually removable
14 defenses versus nonremovable.

15 Q. Do you ever remember a circumstance where a
16 citizenship or a status of a lawful permanent became an
17 issue?

18 A. No.

19 Q. Does the immigration judge or other magistrate
20 judge ever review the detainer before it's issued?

21 A. Not that I know of.

22 Q. Okay. What happens after you issue the
23 detainer?

24 A. It gets faxed to the facility.

1 Q. Do you ever follow up on the detainers that
2 you issue?

3 A. Some I do.

4 Q. Under what circumstances would you decide to
5 follow up on one versus not following up on another?

6 A. If the subject is getting out of jail, has got
7 a release date that's within a month or two, I follow
8 up.

9 Q. What would you follow up on?

10 A. Whether or not he is in our custody.

11 Q. Any other reason you would continue to
12 investigate an individual after you issued the detainer?

13 A. No.

14 Q. So would you say it's fair based on your
15 earlier testimony from the time you started issuing
16 detainers in 2009 from November 2013, that the standard
17 operating procedure has remained the same?

18 A. Yes.

19 Q. Do you remember any -- any changes that stand
20 out, minor that you recall being changed or told to
21 change in your process?

22 A. I don't recall any change.

23 (Whereupon Dimaggio Deposition
24 Exhibit No. 1 was marked for

1 identification.)

2 BY MR. RAJADURAI:

3 Q. Okay. Let's start with an exhibit now. Do
4 you recognize this document?

5 A. No.

6 Q. If you want to take a look through it, that
7 would be great. Let me know when you're all set or
8 you're ready to talk about it.

9 A. Okay.

10 Q. Having reviewed the document, were you ever
11 trained on how to implement the policies herein?

12 A. At the academy.

13 Q. And let's look at Section 4.2.

14 A. Okay.

15 Q. It says you can issue a detainer if you have
16 reason to believe that an individual arrested is subject
17 to ICE detention for removal or removal proceedings,
18 correct?

19 A. Uh-huh.

20 Q. Is that your general understanding of the
21 policy?

22 A. Yes.

23 Q. And what does the phrase "reason to believe"
24 mean to you? How do you understand that?

1 A. Exactly what it says, a reason to believe
2 that. If you have a reason to believe, then you have a
3 reason to believe.

4 Q. Were you ever trained on what those reasons
5 might be?

6 A. Yes.

7 Q. Do you have examples?

8 A. Yeah. If you do checks and you're showing
9 that -- you know, the checks are showing that, you know,
10 a subject is here legally, you have reason to believe.

11 Q. And did you ever receive training after the
12 academy on, you know, any other reasons to believe
13 someone would be the subject of a detainer?

14 A. No.

15 Q. Is there anything in section 4.2 which is
16 inconsistent on how you issue detainers when you were
17 issuing detainers?

18 A. No.

19 Q. I know you said you hadn't seen this document
20 before. Do you remember any other documents of this
21 format of policies you received on how to issue a
22 detainer?

23 A. No.

24 (Whereupon Dimaggio Deposition

3 | BY MR. RAJADURAI:

4 Q. Let's start with Exhibit 2. You probably
5 won't need that one again.

6 Do you recognize this document?

7 A. No.

8 Q. Were you working at ICE Secure Communities
9 when this memo came out in November --

A. 2009? No. I was at the academy.

11 Q. So do you ever recall receiving training on
12 the policies in this document? And if you need to look
13 at the document, feel free.

A. I don't remember receiving training.

15 Q Do you see on page 1, the second paragraph
16 maybe five lines from the bottom, it says -- as a matter
17 of law -- the paragraph above that. "As a matter of
18 law, ICE cannot assert its civil immigration enforcement
19 authority to arrest and/or detain a U.S. citizen"?

20 A. Yes, I see that.

21 Q. Is that your understanding of the ICE policy?

22 A. Yes.

23 Q. Okay. And do you think that statement applies
24 to the issuance of immigration detainers against

1 U.S. citizens?

2 MR. KUHN: Object to the form.

3 THE WITNESS: I'm sorry. Repeat that question
4 again.

5 BY MR. RAJADURAI:

6 Q. Do you think that statement applies to the
7 issuance of immigration detainees?

8 A. Yes.

9 Q. And were you ever instructed on procedures you
10 had to follow to ensure that you didn't issue a detainer
11 against a U.S. citizen?

12 A. Yes.

13 Q. What procedures were those?

14 A. Reviewing all of the checks.

15 Q. Were there any other procedures other than the
16 checks to ensure that you didn't issue a detainer
17 against a U.S. --

18 A. We would contact OCC.

19 Q. And what is OCC?

20 A. Office Counsel -- office chief of counsel.

21 Q. And what you would ask the Office of Chief
22 Counsel?

23 A. To review all of the checks and see if they
24 can get other documents that we can't to -- whether or

1 not, you know. . .

2 Q. And how would you decide for a certain subject
3 when to contact OCC or not to contact OCC?

4 A. If something that we have, it's not enough to
5 prove whether or not the subject is here legally or not.

6 Q. Do you have any examples of that from having
7 gone through that process?

8 A. Yeah. Statutes, you know, if someone has a
9 conviction and we're not sure of the conviction, then we
10 contact the OCC and we ask them whether or not the
11 subject is deportable or not.

12 Q. Okay. And who would you contact at OCC? Did
13 you have a specific contact?

14 A. No.

15 Q. Would you ever investigate a parents' records
16 prior to issuing a detainer through OCC?

17 A. Prior, yes.

18 Q. Okay. Under what circumstances would you ask
19 for parents' records from OCC?

20 A. If they're a lawful permanent resident.

21 Q. How you would determine if the parent or the
22 subject was a lawful permanent resident?

23 A. If it's in our records.

24 Q. Do you remember which records that would be

1 in?

2 A. CIS.

3 Q. You're familiar that the plaintiff in this
4 case is Sergey Mayorov?

5 A. Yes.

6 Q. Mr. Mayorov had an immigration detainer placed
7 on him, correct?

8 A. Yes.

9 Q. And you were the IEA that issued the detainer?

10 A. Yes.

11 Q. Can you tell me about your initial contact
12 with the Mayorov case?

13 A. It was a biometric hit, which means it's a
14 fingerprint hit. We -- I did not talk to the subject.
15 I went based on the information that was in our
16 database.

17 Q. Okay. So I guess starting with the process,
18 first you got the biometric hit. What happened next?
19 Did you request information or was information provided
20 to you?

21 A. The information was provided by the
22 contractors that ran all of the checks available to us
23 at that moment to make a determination.

24 Q. Okay. And was the contractor in this case

1 Ms. Beckman or --

2 A. Yes.

3 Q. Were there other contractors?

4 A. In this case, Ms. Beckman, yes.

5 Q. And do you recall when the detainer was
6 issued?

7 A. It should be on the detainer.

8 MR. RAJADURAI: I guess we can do Exhibit 3.

9 (Whereupon Dimaggio Deposition
10 Exhibit No. 3 was marked for
11 identification.)

12 BY MR. RAJADURAI:

13 Q. Do these documents look familiar to you?

14 Would this be considered a processing packet?

15 A. Yes.

16 Q. In looking at the first page here, 201, who
17 prepared this information? Do you recognize the
18 handwriting on this page?

19 A. Well, by the -- I don't recognize the
20 handwriting, but it seems like it was completed by
21 Beckman because her name is stated on the front page.

22 Q. Okay. And then if we turn to 220, does this
23 tell you what date the immigration detainer was issued?

24 A. Date, March 16, 2011.

1 Q. And then if we turn back to page 202, the
2 second page in the packet, does this document tell you
3 what date this information was provided to you?

4 A. 12/30/2010, I'm thinking.

5 Q. Do you know why there was a two-month passage
6 of time between when the packet was provided and when
7 the detainer was issued?

8 A This is the hit that we received from the
9 facility.

10 Q. And is this typical of getting a two-month gap
11 between getting the hit and issuing the detainer?

12 A. I'm not sure of that.

13 Q. Do you ever recall any other cases where a
14 detainer followed two months after a hit was received?

15 A. For -- if someone is in IDOC, it's possible
16 because the release date could be, you know, far from,
17 so there's no urgency.

18 Q. What would you say the typical time between
19 getting a hit and issuing a detainer would be?

20 A. If it's someone -- if someone is in custody
21 for a DUI and there's a possibility of, you know -- for
22 him to escape, you know, to lose him, we would work on
23 the hit right away.

24 Q. Okay. And then I guess, if we flip to

1 page 213, do you recognize this information?

2 A. Yes.

3 Q. Is this from a particular database?

4 A. CIS.

5 Q. Okay. And what information is provided on
6 this page?

7 A. The permanent card, green card information.

8 It's showing that he's a resident, permanent resident,
9 since 7/22/2005. Last name, first name, date of birth,
10 class of admission, country of birth, sex, and the
11 expiration date of the card.

12 Q. And is this information you would review
13 before issuing a detainer?

14 A. Yes.

15 Q. Okay. What is -- there's an item of category.
16 What does that stand for?

17 A. Category is the class of admission, asylee,
18 AS8.

19 Q. Do you know what AS8 stands for?

20 A. Asylee.

21 Q. Is it child of asylee or just --

22 A. Child -- I think it's child of asylee.

23 Q. So if you saw that information, would that
24 category AS8 tell you that the plaintiff, Mayorov, was a

1 derivative lawful permanent resident through a parent?

2 A. A derivative lawful permanent resident is
3 not -- there's nothing that tells me that he derives
4 citizenship on this form.

5 Q. But as far as you know, ASA does stand for
6 child of asylee?

7 A. Yes.

8 Q. Would that information trigger you to
9 investigate the parents' status as a citizen?

10 A. Yes.

11 Q. Do you recall looking into the parents'
12 citizenship status when you saw this document?

13 A. I don't remember.

14 Q. Do you recall looking at other cases where
15 someone was an AS8 category?

16 A. I do.

17 Q. And would you ever have investigated their
18 parents' citizenship in those cases?

19 A. Yes.

20 Q. And why -- go ahead.

21 A. I believe that in this case the mother had
22 changed name and I wasn't able to find her in CIS.

23 Q. But you do recall looking for the mother's
24 information then?

1 A. I believe so. It's a long -- it's 2011.

2 Q. Okay.

3 A. That's what I would normally do.

4 Q. And as far as you recall, you did look for the
5 mother's information?

6 A. That's what I would normally do.

7 Q. Do you remember -- go ahead.

8 A. Like I said, that's a procedure, but that's
9 what I normally do. I don't remember, like, if I looked
10 over this case, but that's what I usually do.

11 Q. Okay. And would there be any record? If you
12 did run that search for her, would there be a way to
13 find that information?

14 A. If it was not in the printout, no.

15 Q. Would you have done that search yourself or
16 would you go back to the contractor for them to look for
17 that information?

18 A. I would do it myself.

19 Q. And what system would you look at for that?

20 A. CIS, claims.

21 Q. And was there any procedure or steps that you
22 would follow to run that search?

23 A. Just the last name, first name.

24 Q. Were you trained on any protocols to look for

1 a different name, a maiden name that might have changed?

2 Were there any steps in place to help?

3 A. No.

4 Q. So is it fair to say that if you had -- did
5 not have the information on the proper last name, that
6 you would not be able to find the information?

7 A. That's not fair because the database sometimes
8 catches certain names that are similar and, you know,
9 sometimes you catch some -- you know, a different name,
10 a different first name or a different -- you know, if
11 the name is slightly different.

12 Q. More of a fuzzy search, maybe?

13 A. Correct.

14 Q. And is that procedure on searching for other
15 names documented in any way?

16 A. Not that I know of.

17 Q. Was that something you remember receiving
18 training on on how to search?

19 A. Yes.

20 Q. Would that have been at the academy or after?

21 A. After.

22 Q. Do you remember interviewing Mr. Mayorov prior
23 to issuing the detainer?

24 A. No.

1 Q. Did you interview either of his parents before
2 issuing the --

3 A. No.

4 Q. Did you feel as if you should have interviewed
5 him before issuing the detainer?

6 A. At that moment, no.

7 Q. I guess under what circumstances after looking
8 at the system database checks would you decide you
9 should interview someone before issuing a detainer?

10 A. If I have a reason to believe that the subject
11 might have derived citizenship.

12 Q. And is there a particular information in these
13 documents between pages 201 to 222 that might trigger
14 that?

15 A. He's an asylee. He's a son of an asylee, a
16 child of asylee. Procedures -- I checked -- procedures
17 are to check their parents, and if the information is
18 not found, I have a reason to believe that he did not
19 derive at the moment. Therefore, I placed the detainer.

20 Q. And I guess the question a little differently,
21 is there a particular information or lack of information
22 on these records that would, you know, make you think I
23 need to look further?

24 A. No, there's no lack of information.

1 Q. And then you stated that you could not find
2 any information on its mother, correct?

3 A. The standard procedure is that if -- is a
4 lawful permanent resident to check for their parents'
5 status, and this leads me to believe that I couldn't
6 find information on their parents.

7 Q. Okay. And is there any documentation that you
8 have to write or provide to your supervisor that you
9 didn't find the information?

10 A. I don't know if I have to provide that
11 information. Obviously, it's not in this packet.

12 Q. Would you have informed your supervisor that
13 you couldn't find the information?

14 A. No.

15 Q. And is there -- is there, like, a written
16 procedure then to check the parents' records or is that
17 something you choose to do based on the training?

18 A. I'm not sure if it's on the SOP, but we do
19 that based on the training.

20 Q. In the grand scheme of interviewing potential
21 subjects that you would issue a detainer to, on average
22 a percentage, how many people would you have interviewed
23 before issuing a detainer?

24 A. Many.

1 Q. Over 50 percent?

2 A. No.

3 Q. And I guess, in those cases, why did you
4 choose -- was there an overarching reason, a major
5 reason that you chose to issue --

6 A. If it's not a biometric and it's a manual hit,
7 then we do an interview.

8 Q. And did you ever discover someone was a
9 U.S. citizen through an interview that the system didn't
10 identify?

11 A. If it's a manual hit, it happens. It happens.

12 Q. What about an electronic hit, do you recall
13 any?

14 A. Electronic hits, we don't interview. We
15 could, but we don't interview because we have all of the
16 information, all of the facts.

17 Q. And how can you be certain whether someone is
18 or isn't a U.S. citizen without interviewing them?

19 A. Based on the checks that were provided to us.

20 Q. Okay. And whether a person claims citizenship
21 or not, a United States citizen should not receive a
22 detainer, correct?

23 A. Repeat that.

24 Q. Whether a person claims to be a United

1 States citizen or not, a U.S. citizen should not receive
2 a detainer?

3 A. Whether or not they claim it? We still have
4 to do our checks, and if we decided to place a detainer,
5 there is a reason why we are placing a detainer.

6 Q. Okay. I guess as far as you know, should a
7 United States citizen ever be issued --

8 A. If somebody tells me I am a U.S. citizen, it's
9 just their word. Am I going to go -- you know, believe,
10 you know, what they're telling me that they're a U.S.
11 citizen, that's not what I was trained, you know, to do.
12 I have to go based on facts.

13 Q. Sure. But I guess going one step above, as an
14 ICE policy, it's your understanding that a United States
15 citizen should not be issued an immigration detainer?

16 A. That's correct.

17 Q. Okay. Is there any -- I know you said you do
18 some follow-up investigation after issuing a detainer.
19 Is there any written policy on what you would be
20 required to investigate?

21 A. Not that I know of.

22 Q. Okay. Are you aware that ICE have agents at
23 the Stateville Correctional Center that process new
24 inmates?

1 A. Yes.

2 Q. Were you familiar with any of those agents in
3 December 2010?

4 A. That, I'm not sure.

5 Q. That's fine. I guess turning back to this
6 exhibit here in front of you, page 213, do you see at
7 the top there's a date?

8 A. Yes. Which one?

9 Q. 213?

10 A. Which one?

11 Q. The one on your left. No. 2 in the bottom
12 right corner.

13 So on page 213, the date of this document is
14 March 8, 2011, correct?

15 A. Correct.

16 Q. And do you know why the system check would
17 reflect that date instead of December 30, 2010 date that
18 are in the other documents ahead of it?

19 A. Like I said, the other document -- like if the
20 other document, it's a hit that we received from the
21 facility.

22 Q. Okay.

23 A. These are checks that we do.

24 Q. Okay. And was it typical to have a gap

1 between the hit and the check?

2 A. In this case, yes. In this particular case,
3 yes.

4 Q. Do you recall why in this case?

5 A. Well, the subject is in prison, and his
6 release date is not until a later date, so we have a
7 little bit of time to work.

8 Q. That's fair. And then I guess if you return
9 to page 206 --

10 A. Okay.

11 Q. -- have you seen this document before?

12 A. Yes.

13 Q. Do you see where it says location and it says
14 Dixon Springs Boot?

15 A. Okay.

16 Q. So at the time the detainer was issued, you
17 were aware that he was in boot camp?

18 A. No.

19 Q. You didn't know where he was located when you
20 issued --

21 A. I did not know that.

22 Q. You were aware that ICE agents were at
23 Stateville when he was processed. Do you know why?

24 A. I'm sorry. Say that again.

1 Q. You said earlier that you were aware that ICE
2 has agents at Stateville Correctional Center --

3 A. Yes.

4 Q. -- in December of 2010?

5 A. I did -- I was not aware -- I don't remember
6 if I knew in 2010 whether ICE agents were at Stateville.

7 Q. Okay. Assuming they were there, would they
8 have the authority to issue detainers?

9 A. Yes.

10 Q. Okay. And were you familiar with whether ICE
11 agents at Stateville did issue detainers during
12 processing whether in 2010 or any time?

13 A. Well, I wasn't there. I can't answer that.

14 Q. Okay. That's fair. Could you turn to 220.
15 It should be at the end there.

16 A. Okay.

17 Q. What is this document? Do you recognize it?

18 A. 220, you said?

19 Q. Yes.

20 A. This is an immigration detainer, Form 247.

21 Q. And did you issue this detainer?

22 A. Yes, I did.

23 Q. Do you see the section at the top where it
24 says, You're advised that the action noted below has

1 been taken by the U.S. Department of Homeland Security?

2 A. I see that.

3 Q. And you checked that box, correct?

4 A. I checked the first box under that.

5 Q. Okay. And on what basis did you check this
6 box?

7 A. Under the basis that our -- the information
8 that was given to us showed that he was a lawful
9 permanent resident with a deportable defense.

10 Q. And then at the bottom, you also checked the
11 box that says DHS request, that you maintain custody of
12 this individual for 48 hours; is that correct?

13 A. That's correct.

14 Q. And on what basis would you have checked that
15 box?

16 A. The same basis.

17 Q. Okay. And does this document explain why
18 Mr. Mayorov should have been issued a detainer?

19 A. On this document, it does not.

20 Q. Would you have attached that documentation to
21 this document at any --

22 A. Not to the detainer.

23 Q. Where would that information be?

24 A. In our narrative.

1 Q. Okay. And do you recall if you sought
2 approval to issue this detainer before you issued it?

A. Approval?

4 Q. From your supervisor. Was this one of the
5 reports that you sent to him?

6 A. You mean to OCC or --

7 Q. No. Earlier, you mentioned that you would
8 have informed your supervisor that you were going to
9 issue a detainer. Do you recall if this was one of
10 those cases?

11 A. No, I don't recall that. I don't recall that.

12 Q. Okay. Did you ever obtain a warrant of arrest
13 to have the plaintiff detained for immigration purposes?

14 A. No.

15 Q. Okay. Do you have any knowledge of whether
16 plaintiff was likely to escape before you could obtain
17 any warrant?

18 A. No.

19 (Whereupon Dimaggio Deposition
20 Exhibit No. 4 was marked for
21 identification.)

22 BY MR. RAJADURAI:

23 Q. I guess -- I guess we already did that. I
24 think we'll go to a different Exhibit 4. We will

1 probably be done with that, I think. You can look
2 through that a little bit, if you'd like. Do you
3 recognize these documents?

4 A. Yes.

5 Q. What are these documents?

6 A. These are EARM. Basically our database where
7 we create events.

8 Q. And does this document contain information
9 about Mr. Mayorov's citizenship? I guess if you see on
10 the first page, it says, Country of citizenship?

11 A. Oh, no, no. I thought there was more to it,
12 no.

13 Q. Do you see on page 1, it says, Country of
14 Citizenship?

15 A. Yes.

16 Q. What does that say?

17 A. It says Belarus.

18 Q. What is the date of this?

19 A. I'm sorry?

20 Q. What is the date? Is there any way to
21 identify what date this report was run? Would the date
22 in the corner, April 10, 2004, bottom right corner --
23 would that be the date that this EARM was prepared or
24 printed?

1 A. I'm not sure of that.

2 Q. Okay. Now, do you know if there's any duty to
3 update the EARM records?

4 A. Yes, we have a duty to update.

5 Q. Would that be your duty to update this kind of
6 record?

7 A. It would be the CAP agent.

8 Q. And how would the CAP agent know to update the
9 records?

10 A. When the subject is in proceedings and being
11 investigated, then they would update the record.

12 Q. Did IEA agents ever have any duty to tell the
13 CAP agent to update information on these reports?

14 A. There's really no reason to update anything
15 that was created here. The subject was not in our
16 custody. In this case, you don't have to update
17 anything.

18 Q. So as far as you know, there was no duty or
19 responsibility to update that Mr. Mayorov's citizenship
20 had changed?

21 A. At that point, we did not know. At that
22 point, we did not know he was a U.S. citizen. Nobody
23 could have updated anything in the record.

24 Q. Let's say this April 10, 2014 date is correct.

1 Would you have expected this report to be different now
2 knowing the information about Mr. Mayorov?

A. Who printed this form?

4 Q. We got this from your counsel. So as far as
5 you know, just from your understanding.

6 A. But it doesn't show here that he is a U.S.
7 citizen on this form.

8 Q. Sure. As far as you know, would you have
9 expected that to be changed, if he was a U.S. citizen?

10 A. The comments are not going to be on this form.
11 The comments could have been put in another form -- in
12 other parts of the system.

13 Q. Do you have any ability to know who would run
14 this report? Would this be one of the reports that
15 Ms. Beckman provided to you?

16 A. Yes.

17 Q. Not necessarily this page but --

18 A. She would provide me with, you know, yes,
19 reports like this.

20 Q. Okay. That's fine. Let's do Exhibit 5.
21 We're probably done with that one.

22 (Whereupon Dimaggio Deposition
23 Exhibit No. 5 was marked for
24 identification.)

1 BY MR. RAJADURAI:

2 Q. Have you seen this document before?

3 A. I don't remember seeing these documents.

4 Q. These are documents provided by your attorney,
5 the government's attorney, and I guess let's turn to the
6 second page from the end.

7 A. Oh, second page from the end?

8 Q. Yeah.

9 Okay. Do you recognize this document?

10 A. Now that I'm looking at this document, yes.

11 Q. What is this?

12 A. Actually, I recognize it because I saw it --
13 my supervisor, second line supervisor e-mailed it to me
14 yesterday.

15 Q. Had you ever seen this document before then?

16 A. No.

17 Q. Do you happen to know what this document is
18 generally?

19 A. No, I don't know, but now it shows here that
20 it's Stateville, NRC. No, I don't know what this is.

21 Q. Do you see it says USC on there? Do you know
22 what that note might mean?

23 A. Child of an USC.

24 Q. UR -- USC, where it says that?

1 A. It says --

2 Q. Oh, child of?

3 A. Child of USC.

4 Q. Do you know what that means?

5 A. Exactly what it says. Child of USC. It's a
6 note.

7 Q. And do you know why this information would not
8 have been part of your packet of materials you received?

9 A. I don't know that.

10 Q. Did you happen to know who would have prepared
11 this document?

12 A. Don't know that.

13 Q. This is not a typical document you saw as an
14 ICE --

15 A. No.

16 Q. Have you ever investigated why ICE agents at
17 Stateville don't issue detainers?

18 A. No.

19 Q. And is that -- you were primarily located
20 there, correct? Were you at Stateville?

21 A. No.

22 Q. Okay. Which facilities were you at?

23 A. I was in the federal building on Clark.

24 Q. And were you ever familiar that the ICE agents

1 at Stateville did issue detainers?

2 A. We're talking about now or back then?

3 Q. Or when -- between 2009 and 2013.

4 A. Between 2009 to '13, yes.

5 Q. Okay. I guess let's turn -- what number are
6 we on?

7 6.

8 (Whereupon Dimaggio Deposition
9 Exhibit No. 6 was marked for
10 identification.)

11 BY MR. RAJADURAI:

12 Q. Do you recognize this document?

13 A. Yes.

14 Q. What is it?

15 A. It's a detainer.

16 Q. Is it fair to say it's a cancellation of the
17 detainer?

18 A. Yes. Please, cancel detainer being placed by
19 this Office on -- yup.

20 Q. And you issued this form?

21 A. Yes, I did.

22 Q. And why did you issue this form?

23 A. I was advised from my supervisor that the
24 subject is an USC. So we lifted the detainer.

1 Q. Who is your supervisor at the time?

2 A. Well, he's actually -- it was not my direct
3 supervisor, but the supervisor that advised me was
4 Shawn Wright.

5 Q. And do you know if he's still in the same
6 role?

7 A. He's a deportation officer right now.

8 Q. And did you get a reason for why other than he
9 was U.S. citizen?

10 A. He had told me that they -- they had
11 information that showed that he was a U.S. citizen.
12 Therefore, he --

13 Q. And do you know who made the discovery of that
14 information?

15 A. I don't know.

16 Q. And this is dated March 16, 2011?

17 A. Yes.

18 Q. Well, that wouldn't be correct, right,
19 because -- do you think that was an error just because
20 that was the same date his detainer was --

21 A. We -- well, we print out the same form.

22 Q. Okay. Do you happen to know what date the
23 detainer was canceled?

24 A. No, I don't remember.

1 Q. Okay. How soon before you issued this form
2 did you become aware that it was supposed to be
3 canceled? Was this form prepared immediately?

4 A. How soon -- I don't remember. I want to say
5 within months. I don't remember exactly.

Q. And do you -- did you ask who made the discovery of the information that he was --

8 A. I did not ask.

9 Q. Okay. You would have only spoken to
10 Mr. Wright about this issue?

11 A. Yes. That's the only person I spoke to.

Q. Okay. I think we're okay with that one.

13 (Whereupon Dimaggio Deposition
14 Exhibit No. 7 was marked for
15 identification.)

16 BY MR. RAJADURAI:

17 Q. Have you seen this document before, Exhibit 7?

A. I don't remember.

19 Q. I guess if we turn to page -- or response 3,
20 so pages 2 to 3; is that correct?

21 A. The same document that you just --

22 MR. FLEMING: Maybe we can use the amended
23 one. The answer on that one is the same.

24 MR. RAJADURAI: We will get rid of 7 and go

1 back to No. 5, the same one.

2 BY MR. RAJADURAI:

3 Q. And then if you turn to page 2 and if you look
4 at interrogatory No. 3 and the response --

5 A. Uh-huh.

6 Q. -- are you familiar with Ronald Easterday?

7 A. Yeah.

8 Q. Who is he?

9 A. He's a SDEO of our cap unit.

10 Q. Okay. And what is his role in that position?

11 A. He's a supervisor of our cap unit.

12 Q. And in what cases would he get involved with
13 the detainer issuance or cancellation process?

14 A. Well, I'm familiar with -- he would be
15 involved if someone comes in our custody, and I don't
16 know his involvement with someone that -- I don't know
17 his involvement, if someone is getting the detainer
18 lifted.

19 Q. And do you recall ever communicating with
20 Mr. Easterday?

21 A. No.

22 Q. About Mr. Mayorov's case. Do you have any
23 idea of who might have contacted him about this certain
24 case?

1 A. No idea.

2 Q. Was it typical to -- I guess in your
3 experience, how many cancellations of detainees were you
4 involved with?

5 A. Maybe five.

6 Q. Do you remember the reasons for those?

7 A. I don't remember the reasons, no.

8 Q. And would it have come from Mr. Easterday or
9 Mr. Wright or who would it have come from?

10 A. Sometimes, it would come from informations
11 that we have gathered through the detainee like faxing
12 us a copy of the birth certificate or some kind of
13 evidence that would show that he is a U.S. citizen.

14 Q. Okay. And did you ever cancel a detainer on
15 your own authority -- strike that.

16 Did you have the authority to cancel a
17 detainer without getting approval from someone else?

18 A. I do have the authority to cancel the
19 detainer, but I always seek approval.

20 Q. Did you receive training on cancellation of
21 detainees?

22 A. No.

23 Q. Okay. If we turn back to Exhibit 2, which is
24 this Morton memo, it says in the bottom paragraph, of

1 page 1, "If evidence indicates the individual is a USC,
2 ICE should neither arrest, nor place the individual in
3 removal proceedings"; is that correct?

4 A. That's correct.

5 Q. And that's your understanding of the policy?

6 A. That's my understanding of the policy.

7 Q. And it also says, "If an individual already in
8 custody claims to be a USC, an officer must immediately
9 examine the merits of the claim and notify and consult
10 with his" --

11 MR. KUHN: Where does it say -- where are you
12 talking about?

13 MR. RAJADURAI: I think it's on the second
14 page. Second page, middle, first under Claims by
15 Detained Individual.

16 THE WITNESS: Oh, what this is stating if
17 they're in custody of ICE.

18 BY MR. RAJADURAI:

19 Q. So this is only ICE's custody, as far as you
20 understand?

21 A. That's what it's saying here.

22 Q. Okay. Are you aware of whether his --
23 Mr. Mayorov's detainer was ever reissued?

24 A. I'm not aware of that.

1 Q. Okay. I think we're good with that one.

2 MR. RAJADURAI: 8, Exhibit 8.

3 (Whereupon Dimaggio Deposition
4 Exhibit No. 8 was marked for
5 identification.)

6 BY MR. RAJADURAI:

7 Q. Do you recognize this document?

8 A. No, I don't recognize this document.

9 Q. But are you aware that ICE are part of the
10 processing at Stateville?

11 A. Now, I -- yes, I am aware of that.

12 Q. Do you know any of the ICE agents' names
13 between 2009 and 2013 that were in Stateville in
14 processing?

15 A. I found out that in -- you know, some of the
16 ICE agents, they were in Stateville.

17 Q. Do you remember their names?

18 A. Jen Wall. I don't remember anybody else.

19 Q. Do you happen to know if she was there in
20 December of 2010?

21 A. She was there. I found out through the e-mail
22 I received, yes.

23 Q. Okay. And who is that e-mail from?

24 A. My supervisor.

1 Q. That was?

2 A. One of my supervisors. McGorny.

3 MR. RAJADURAI: Let's see. Exhibit 9. We're
4 done with that one.

5 (Whereupon Dimaggio Deposition
6 Exhibit No. 9 was marked for
7 identification.)

8 BY MR. RAJADURAI:

9 Q. Do you recognize this document?

10 A. Yes.

11 Q. And what is this?

12 A. This is an application to register a permanent
13 resident or adjust status, Form I-485.

14 Q. And would you have seen this document prior to
15 issuing the detainer?

16 A. Not this document. The information that we
17 have showed that he's already of status.

18 Q. When --

19 A. Lawful permanent accident.

20 Q. When would you have seen this document or did
21 you ever see this document before today?

22 A. This document?

23 Q. Yeah.

24 A. No, I never seen.

1 Q. If we turn back to Exhibit 6, the
2 cancellation -- actually, I think it's exhibit -- the
3 actual issuance, No. -- it's inside the big packet of
4 information, Exhibit 3.

5 Page 220, do you see the phone number there in
6 the box halfway down, the (708) 449-2495?

7 A. I see that.

8 Q. Do you recognize that number?

9 A. I do.

10 Q. What phone number is that?

11 A. That's for the detention center in Broadview.

12 Q. And who would receive calls to that number?

13 Would it be an ICE agent.

14 A. That's just a general number.

15 Q. And you said Broadview?

16 A. Broadview, yes.

17 Q. And where is that?

18 A. I believe that -- I believe that's a com
19 center phone number.

20 Q. Okay. And would you receive information
21 passed along through the com center ever?

22 A. I'm sorry. Repeat that.

23 Q. Would you receive information about a subject
24 through this com center if someone called this number?

1 A. Yes.

2 Q. And who would pass that on?

3 A. The person that received the phone call.

4 Q. Do you remember how often you would get
5 information through the come center?

6 A. It's not a pattern. It depends, you know.
7 If -- if the com center got a phone call from a jail and
8 someone is ready to be released, they would call me and
9 tell me, you know, right away. There's no -- there's no
10 pattern, really.

11 Q. Do you happen to know if there is a voicemail
12 account linked to this?

13 A. I don't know that.

14 Q. Did you ever receive any phone calls from
15 Mr. Mayorov?

16 A. No.

17 Q. What about from Mr. Mayorov's mother?

18 A. No.

19 Q. Did you ever receive any messages that they
20 had contacted this number?

21 A. No.

22 MR. RAJADURAI: I'm good on our end.

23 MR. KUHN: I have nothing.

24 We'll reserve.

1 (Whereupon the deposition
2 concluded at 12:00 p.m.)
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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
SERGEY MAYOROV,)
)
Plaintiff,)
)
-vs-)No. 13 C 5249
)
UNITED STATES OF AMERICA,)
)
Defendant.)
_____)

14 I, GUISEPPE DIMAGGIO, being first duly sworn, on
15 oath, say that I am the deponent in the aforesaid deposition,
16 that I have read the foregoing transcript of my deposition
17 taken on the 30th of April, 2014, consisting of pages 1
through 70, taken at the aforesaid time and place and that
the foregoing is a true and correct transcript of my
testimony so given.

18 ____ Corrections have been submitted

19 ____ No corrections have been

20 submitted

22 SUBSCRIBED AND SWORN TO
before me this ____ day
23 of A.D., 2014

1 Notary Public
2 Northern DISTRICT OF ILLINOIS)
3 EASTERN DIVISION)
4 STATE OF ILLINOIS)
5) SS:
6 COUNTY OF C O O K)
7

8 I, Tracy Kerney, Certified Shorthand Reporter,
9 do hereby certify that on the 30th of April, A.D., 2014,
10 the deposition of GUISEPPE DIMAGGIO, called by the
11 Plaintiff, was taken before me, reported
12 stenographically and was thereafter reduced to
13 typewriting through computer-aided transcription.

14 The said witness, GUISEPPE DIMAGGIO, was first
15 duly sworn to tell the truth, the whole truth, and
16 nothing but the truth, and was then examined upon oral
17 interrogatories.

18 I further certify that the foregoing is a
19 true, accurate and complete record of the questions
20 asked of and answers made by the said witness, at the
21 time and place hereinabove referred to.

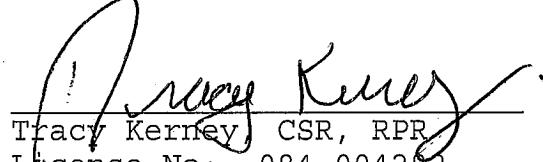
22 The signature of the witness was not waived by
23 agreement.

24 Pursuant to Rule 30(e) of the Federal Rules of

1 Civil Procedure for the United States District Courts,
2 if deponent fails to read and sign this deposition
3 transcript within 30 days or make other arrangements for
4 reading and signing thereof, this deposition transcript
5 may be used as fully as though signed, and the instant
6 certificate will then evidence such failure to read and
7 sign this deposition transcript as the reason for
8 signature being waived.

9 The undersigned is not interested in the
10 within case, nor of kin or counsel to any of the
11 parties.

12 Witness my official signature on this 14th day
13 of May, A.D, 2014.

14 
15 Tracy Kerney CSR, RPR
16 License No: 084-004282

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